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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054109
Party	Plaintiff T. E. Neesby, Inc.
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Submission	Motion to Reopen
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Date	08/27/2012
Attachments	WhiteBrian-Seriphos-MotionResume.pdf ( 3 pages )(52451 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Cancellation No. 92054109

For the mark SERIPHOS

Registration No. 2740222

Registration Date: July 22, 2003

T. E. NEESBY, INC.

Petitioner

vs.

INTERPLEXUS CORPORATION,

Registrant

**MOTION FOR RESUMPTION OF CANCELLATION PROCEEDING**

The Petitioner, T. E. Neesby, Inc. (hereinafter, “Neesby”), petitions the Trademark Trial and Appeal Board to resume the above-referenced cancellation proceeding.

It is highly unlikely that a final judgment will be issued in the foreseeable future in the civil action known as *Interplexus Corporation v. T. E. Neesby, Inc. et al.*, presently pending before the United States District Court, Eastern District of California, Case No. 1:11-cv-00597-AWI-SMS, filed on April 13, 2011. Plaintiffs in this case appear to be engaging in inappropriate delay tactics. The deposition of Brian White, one of two principals of defendant Neesby, was cancelled by plaintiffs. The deposition, which was scheduled for August 28, 2012, was cancelled by plaintiffs. No rescheduling of the deposition has occurred.

Furthermore, it may not even be appropriate for a decision to be reached in the California case, as ownership of plaintiff Interplexus Corporation is presently being contested before the Washington Western District Court in the civil action known as *Ilyia v. El Khoury, et al.*, case No. 2:201cv01593, which was filed on September 23, 2011. Elias F. Ilyia, the former President of Interplexus Corporation and the affiant in the Declaration for the trademark application which

resulted in the grant of Registration No.: 2,740,222 for the mark SERIPHOS, which is the subject of the present cancellation proceeding, sued Maroun E. El Khoury, the present owner of Interplexus Corporation and the primary litigant in the California case, alleging fraud in connection with the sale of Interplexus Corporation to El Khoury. If defendant El Khoury loses the Washington litigation, the California litigation may be terminated with no decision on the merits with respect to the allegations of trademark fraud that are central to both defense of the California case and grounds for the present cancellation proceeding.

Further complicating the matter is the fact that Sam A. Eidy, Mr. Ilyia's attorney in the Washington case, informed the defendants in the California case that Maroun E. El Khoury was arrested on charges of fraud when he recently visited his home country of Lebanon, and is being prevented from leaving that country until the fraud charges are resolved.

Neesby, the Petitioner in the present case, believes that invalidity of the registered mark SERIPHOS can be determined most expeditiously by the TTAB proceeding. Any attempt by Interplexus Corporation to continue the stay of the proceeding is simply a delay tactic that serves no legitimate purpose. It is likely that the completion of the TTAB proceeding will occur long before resolution of either of the other two pending cases.

Signed at Provo, Utah this 27th day of July, 2012.

By: /angus fox/  
Angus C. Fox, III  
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**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that the foregoing MOTION FOR RESUMPTION OF CANCELLATION PROCEEDING in response to the Board Order issued by Jennifer Krisp, Interlocutory Attorney, on July 27, 2012, was filed electronically with the Trademark Trial and Appeal Board on this 27<sup>th</sup> day of August 2012.

/angus fox/  
Angus C. Fox, III

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing MOTION FOR RESUMPTION OF CANCELLATION PROCEEDING in response to the Board Order issued by Jennifer Krisp, Interlocutory Attorney, on July 27, 2012, was served upon counsel for Registrant, Interplexus Corporation, this 27<sup>th</sup> day of August 2012, by sending the same via First Class U.S. Mail, postage prepaid to:

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P.O. Box 28912  
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and

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